

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO. 30 OF 2006

UNION OF INDIA THROUGH MR. M.
MIRANDA

....Petitioner

Versus

MS. BONAITA NILAMADHAVA AND ANR.,

....Respondents

Mr. Joseph Vaz, Special Public Prosecutor for the Petitioner.
Ms. W. Coutinho, Public Prosecutor for the State/Respondent no.2.

Coram:- N. A. BRITTO, J.

Date:- 10th August, 2006

ORAL ORDER

Heard Shri J. Vaz, the learned Special Public Prosecutor on behalf of the Complainant.

2. The Respondent no.1 was allegedly found on 14.03.2006 with 3549 Ecstasy tablets and was prosecuted before the Juvenile Justice Board, Goa, as juvenile in conflict with law, having committed an offence punishable under Sections 22(c) read with Section 23 of the Drugs and Psychotropic Substances Act, 1985, and Sections 113(d) (e) and Section 118 (b) of the Customs Act, 1962.

3. The Juvenile Justice Board, by its order dated 17.07.2006, dealt with the respondent no.1 under Section 15(1)(a) of the Juvenile Justice (Care and Protection of Children) Act, 2000, and released her after admonition and further directed that she be deported and be handed over in the custody of her natural parents, who were present before the said Juvenile Justice Board with a further direction that the juvenile be taken to her home country i.e. Italy, within thirty days.

4. This revision has been filed by the Complainant in terms of Section 53 of the Juvenile Justice (Care and Protection of Children) Act, 2000, ('Act' for short), which provides that the High Court may at any time, either of its own motion or on an application received in this behalf, call for the record of any proceeding in which any competent authority or Court of Sessions has passed an order for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it thinks fit: Provided that the High Court shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

5. Section 52 of the said Act also provides for appeals and sub-section (1) thereof provides that subject to the provisions of this Section, any person aggrieved by an order made by a competent authority under this Act may, within thirty days from the date of such order, prefer an appeal to the Court of Session provided that the Court of Session may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. Sub-section (2) of Section 52 of the said Act provides for cases where no appeal shall lie and, certainly, the case at hand, is not one of those type cases which have been provided for under sub-section (2) of Section 52 of the said Act.

6. There is no doubt that a revisional remedy is provided in terms of Section 53 of the Act. The question of entertaining a revision is always a matter of discretion and not a right given to a party while the right of appeal is a substantive right provided to an aggrieved party. When the Complainant is entitled to file an appeal against the impugned order dated 17.07.2006, I do not see any reason, much less a good reason, to entertain the present revision.

7. In case the Complainant is aggrieved by the order dated 17.07.2006 of the learned Juvenile Justice Board, the Complainant is at liberty to file an appeal.

8. At this stage, Shri J. Vaz, the learned Special Public Prosecutor, seeks leave to withdraw this revision with liberty to file an appeal. Leave to withdraw the revision is granted. Complainant is at liberty to file an appeal, as provided in law.

9. The revision petition shall stand disposed of in the above terms with no order as to costs. The certified copy of the impugned order dated 17.07.2006 be returned to the Complainant upon substituting the same by a xerox copy.

N. A. BRITTO, J.

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